

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SEALED

UNITED STATES OF AMERICA

v.

DEJAN KARABASEVIC, aka
DAN KARABASEVIC,

Defendant.

)
) Case No. 12-MJ-11
)
) SUPERSEDING COMPLAINT FOR
) VIOLATIONS OF TITLE 18, UNITED
) STATES CODE, SECTIONS 371 and
) 1030(a)(2)(C)
)
)
)
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)
)

BEFORE United States Magistrate Judge
Stephen L. Crocker

United States District Court
120 North Henry Street
Madison, Wisconsin 53703

The undersigned complainant being duly sworn states:

COUNT 1

On or about March 7, 2011, in the Western District of Wisconsin and elsewhere, the defendant,

DEJAN KARABASEVIC aka DAN KARABASEVIC,
intentionally accessed a protected computer in Middleton, Wisconsin, belonging to AMSC (the computer), without authorization and exceeding authorized access to that computer, and thereby obtained information, specifically, computer source code version 5650414_R1, from the computer, and the value of the information exceeded \$5,000, and the offense was committed for purposes of commercial advantage and private financial gain.

(All in violation of Title 18, United States Code, Sections 1030(a)(2)(C) and (c)(2)(B)(I) and (iii)).

COUNT 2

At times material to this Count:

1. AMSC (formerly American Superconductor, Inc.), is a United States-based company that, among other things, produced equipment and software that regulated the flow of electrical energy from wind turbines to electrical grids.

2. Among the products that AMSC sold was software, the “source code” for which was developed in Wisconsin and which was stored in a computer server located in Middleton, Wisconsin. This source code was the computer source code version 5650414_R1, described in Count 1 of this complaint. In the same Middleton, Wisconsin computer server, AMSC stored a “checksum generator” program designed to work with source code version 5650414_R1. Both source code version 5650414_R1 and the “checksum generator” program were original works of authorship, belonging to AMSC, that were fixed in a tangible medium of expression, namely, the folder stored on an AMSC computer server in Middleton, Wisconsin. AMSC incorporated the term “copyright” into source code version 5650414_R1 and took deliberate steps to protect source code version 5650414_R1 and its other intellectual property from unauthorized use.

3. A manufacturer of wind turbines (hereafter, the Company), based in the People’s Republic of China (hereafter, China) purchased software and equipment from AMSC for the wind turbines that it manufactured, sold, and serviced. The Company, a conspirator but not charged in this complaint, sold and serviced wind turbines in China, in the United States, and around the world. Among the products that the Company legitimately obtained from AMSC was the software, compiled from source code version 5650414_R1, described above. However, the version of the software that AMSC provided to

the Company was a test version designed to only work for 14 days.

4. Individual A, a member of this conspiracy but not charged in this complaint, worked as a Deputy Director in the Research and Development Department of the Company.

5. Individual B, a member of this conspiracy but not charged in this complaint, worked as a Technology Manager for the Company.

6. Defendant DEJAN KARABASEVIC, aka DAN KARABASEVIC, (KARABASEVIC), was employed by AMSC Windtec GmbH (AMSC Windtec), in Klagenfurt, Austria. AMSC Windtec is a wholly-owned subsidiary of AMSC. KARABASEVIC headed the Automation Engineering Department at AMSC Windtec, Klagenfurt, Austria.

Conspiracy

7. From on or about January 1, 2011, to on or about May 10, 2012, in the Western District of Wisconsin and elsewhere, the defendant,

DEJAN KARABASEVIC, aka DAN KARABASEVIC,

knowingly and unlawfully conspired with the Company, Individual A, and Individual B, to commit and to cause to be committed violations against the United States, namely, criminal copyright infringement in violation of Title 17, United States Code, Section 506(a)(1)(A) and Title 18, United States Code, Section 2319.

Manner and Means

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

8. It was part of the conspiracy that the Company, through Individuals A and B, recruited KARABASEVIC to leave AMSC Windtec and join the Company.

9. It was further part of the conspiracy that, between March 1, 2011 and May

30, 2011, KARABASEVIC secretly copied intellectual property from the AMSC computer system, including the source code version 5650414_R1 and the proprietary "checksum generator" program developed by AMSC which was necessary to use software compiled from source code version 5650414_R1.

10. It was further part of this conspiracy that on or about June 1, 2011, the Company provided KARABASEVIC with a one-year employment contract that made it appear that KARABASEVIC would work for a Chinese wind turbine blade manufacturer from July 1, 2011, to June 30, 2012, in order to hide that KARABASEVIC planned to work for the Company during the same period.

11. It was further part of this conspiracy that between approximately May 2011 and June 2011, the Company provided KARABASEVIC with a laptop computer with which he removed the AMSC restricted use controls from source code version 5650414_R1. When KARABASEVIC provided the Company with a compiled version of the software from source code version 5650414_R1, there was no restriction on the use of this software. During the same period, the Company provided KARABASEVIC with an apartment in Beijing, China, and equipment for his use to deploy AMSC's intellectual property for unlimited and unlicensed use by the Company.

12. It was further part of this conspiracy that on at least two occasions, May 28, 2011, and June 11, 2011, KARABASEVIC emailed to Individual A modified versions of the software compiled from AMSC's source code version 5650414_R1.

13. It was further part of this conspiracy that between on or about March 7, 2011, and on or about June 24, 2011, KARABASEVIC adapted the AMSC intellectual property that he had unlawfully downloaded for unlicensed use within the Company's wind turbines.

14. It was further part of this conspiracy that between June 11, 2011, and December 11, 2011, Individuals A and B copied and caused to be copied the software, modified by KARABASEVIC, that was compiled from AMSC's source code version 5650414_R1, and other intellectual property belonging to AMSC, into more than ten Company wind turbines.

15. It was further part of this conspiracy that on or about October 25, 2011, the Company, with Individual B serving in a managerial role, commissioned a wind turbine in Charlestown, Massachusetts. During the commissioning process, the Company copied into the turbine the stolen and modified software compiled from AMSC's source code version 5650414_R1.

16. It was further part of this conspiracy that on or about April 20, 2012, the Company, with Individual B serving in a managerial role, commissioned a wind turbine in Scituate, Massachusetts. During the commissioning process, the Company loaded into the turbine, the stolen and modified software compiled from AMSC's source code version 5650414_R1.

Overt Acts

17. In furtherance of this conspiracy, and to accomplish its objectives, the defendant and his co-conspirators performed and caused to be performed the following overt acts, among others, within the Western District of Wisconsin and elsewhere:

(a) On or about March 7, 2011, KARABASEVIC used the internet to access an AMSC, Middleton, Wisconsin computer from which he secretly copied source code version 5650414_R1 and the AMSC "checksum generator" program.

(b) On or about May 28, 2011, KARABASEVIC emailed to Individual A,

a modified version of the software compiled from AMSC's source code version 5650414_R1.

(c) On or about June 1, 2011, the Company provided KARABASEVIC with a one-year employment contract that made it appear that KARABASEVIC would work for a different business, a Chinese wind turbine blade manufacturer, from July 1, 2011, to June 30, 2012.


(d) On or about June 11, 2011, KARABASEVIC emailed to Individual A, a modified version of the software compiled from AMSC's source code version 5650414_R1.

(e) On or about October 25, 2011, the Company and Individual B, copied and caused to be copied the stolen and modified software compiled from AMSC's source code version 5650414_R1 into a wind turbine in Charlestown, Massachusetts.

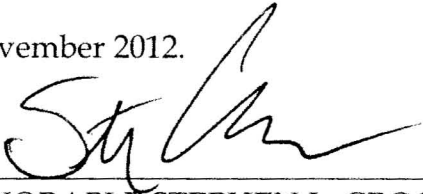
(f) On or about April 20, 2012, the Company and Individual B, copied and caused to be copied the stolen and modified software compiled from AMSC's source code version 5650414_R1 into a wind turbine in Scituate, Massachusetts.

(All in violation of Title 18, United States Code, Section 371).

This complaint is based on the attached affidavit of Special Agent Joshua Ben Mayers, Federal Bureau of Investigation, Madison, Wisconsin.


JOSHUA BEN MAYERS
Federal Bureau of Investigation

Sworn to before me this 5th day of November 2012.


HONORABLE STEPHEN L. CROCKER
United States Magistrate Judge